

§ 1201.1

- 1201.125 Administrative law judge.
- 1201.126 Final decisions.
- 1201.127 Judicial review.

SPECIAL COUNSEL CORRECTIVE ACTIONS

- 1201.128 Filing complaint; serving documents on parties.
- 1201.129 Contents of complaint.
- 1201.130 Rights; answer to complaint.
- 1201.131 Judge.
- 1201.132 Final decisions.
- 1201.133 Judicial review.

SPECIAL COUNSEL REQUESTS FOR STAYS

- 1201.134 Deciding official; filing stay request; serving documents on parties.
- 1201.135 Contents of stay request.
- 1201.136 Action on stay request.

ACTIONS AGAINST ADMINISTRATIVE LAW JUDGES

- 1201.137 Covered actions; filing complaint; serving documents on parties.
- 1201.138 Contents of complaint.
- 1201.139 Rights; answer to complaint.
- 1201.140 Judge; requirement for finding of good cause.
- 1201.141 Judicial review.
- 1201.142 Actions filed by administrative law judges.

REMOVAL FROM THE SENIOR EXECUTIVE SERVICE

- 1201.143 Right to hearing; filing complaint; serving documents on parties.
- 1201.144 Hearing procedures; referring the record.
- 1201.145 No appeal.

REQUESTS FOR PROTECTIVE ORDERS

- 1201.146 Requests for protective orders by the Special Counsel.
- 1201.147 Requests for protective orders by persons other than the Special Counsel.
- 1201.148 Enforcement of protective orders.

Subpart E—Procedures for Cases Involving Allegations of Discrimination

- 1201.151 Scope and policy.
- 1201.152 Compliance with subpart B procedures.
- 1201.153 Contents of appeal.
- 1201.154 Time for filing appeal; closing record in cases involving grievance decisions.
- 1201.155 Remand of allegations of discrimination.
- 1201.156 Time for processing appeals involving allegations of discrimination.
- 1201.157 Notice of right to judicial review.

REVIEW OF BOARD DECISION

- 1201.161 Action by the Equal Employment Opportunity Commission; judicial review.

5 CFR Ch. II (1–1–05 Edition)

- 1201.162 Board action on the Commission decision; judicial review.

SPECIAL PANEL

- 1201.171 Referral of case to Special Panel.
- 1201.172 Organization of Special Panel; designation of members.
- 1201.173 Practices and procedures of Special Panel.
- 1201.174 Enforcing the Special Panel decision.
- 1201.175 Judicial review of cases decided under 5 U.S.C. 7702.

Subpart F—Enforcement of Final Decisions and Orders

- 1201.181 Authority and explanation.
- 1201.182 Petition for enforcement.
- 1201.183 Procedures for processing petitions for enforcement.

Subpart G—Savings Provisions

- 1201.191 Savings provisions.

Subpart H—Attorney Fees (Plus Costs, Expert Witness Fees, and Litigation Expenses, Where Applicable), Consequential Damages, and Compensatory Damages

- 1201.201 Statement of purpose.
- 1201.202 Authority for awards.
- 1201.203 Proceedings for attorney fees.
- 1201.204 Proceedings for consequential damages and compensatory damages.
- 1201.205 Judicial review.

APPENDIX I TO PART 1201 [RESERVED]

APPENDIX II TO PART 1201—APPROPRIATE REGIONAL OR FIELD OFFICE FOR FILING APPEALS

APPENDIX III TO PART 1201—APPROVED HEARING LOCATIONS BY REGIONAL OFFICE

APPENDIX IV TO PART 1201—SAMPLE DECLARATION UNDER 28 U.S.C. 1746

AUTHORITY: 5 U.S.C. 1204 and 7701.

SOURCE: 54 FR 53504, Dec. 29, 1989, unless otherwise noted.

Subpart A—Jurisdiction and Definitions

§ 1201.1 General.

The Board has two types of jurisdiction, original and appellate.

§ 1201.2 Original jurisdiction.

The Board's original jurisdiction includes the following cases:

- (a) Actions brought by the Special Counsel under 5 U.S.C. 1214, 1215, and 1216;

Merit Systems Protection Board

§ 1201.3

(b) Requests, by persons removed from the Senior Executive Service for performance deficiencies, for informal hearings; and

(c) Actions taken against administrative law judges under 5 U.S.C. 7521.

[54 FR 53504, Dec. 29, 1989, as amended at 62 FR 66814, Dec. 22, 1997]

§ 1201.3 Appellate jurisdiction.

(a) *Generally.* The Board has jurisdiction over appeals from agency actions when the appeals are authorized by law, rule, or regulation. These include appeals from the following actions:

(1) Reduction in grade or removal for unacceptable performance (5 CFR part 432; 5 U.S.C. 4303(e));

(2) Removal, reduction in grade or pay, suspension for more than 14 days, or furlough for 30 days or less for cause that will promote the efficiency of the service. (5 CFR part 752, subparts C and D; 5 U.S.C. 7512);

(3) Removal, or suspension for more than 14 days, of a career appointee in the Senior Executive Service (5 CFR part 752, subparts E and F; 5 U.S.C. 7541-7543);

(4) Reduction-in-force action affecting a career appointee in the Senior Executive Service (5 U.S.C. 3595);

(5) Reconsideration decision sustaining a negative determination of competence for a general schedule employee (5 CFR 531.410; 5 U.S.C. 5335(c));

(6) Determinations affecting the rights or interests of an individual or of the United States under the Civil Service Retirement System or the Federal Employees' Retirement System (5 CFR parts 831, 839, 842, 844, and 846; 5 U.S.C. 8347(d)(1)-(2) and 8461 (e)(1); and 5 U.S.C. 8331 note, Federal Erroneous Retirement Coverage Corrections Act)

(7) Disqualification of an employee or applicant because of a suitability determination (5 CFR 731.501);

(8) Termination of employment during probation or the first year of a veterans readjustment appointment when:

(i) The employee alleges discrimination because of partisan political reasons or marital status; or

(ii) The termination was based on conditions arising before appointment and the employee alleges that the action is procedurally improper (5 CFR 315.806, 38 U.S.C. 4214(b)(1)(E));

(9) Termination of appointment during a managerial or supervisory probationary period when the employee alleges discrimination because of partisan political affiliation or marital status (5 CFR 315.908(b));

(10) Separation, demotion, or furlough for more than 30 days, when the action was effected because of a reduction in force (5 CFR 351.901);

(11) Furlough of a career appointee in the Senior Executive Service (5 CFR 359.805);

(12) Failure to restore, improper restoration of, or failure to return following a leave of absence an employee or former employee of an agency in the executive branch (including the U.S. Postal Service and the Postal Rate Commission) following partial or full recovery from a compensable injury (5 CFR 353.304);

(13) Employment of another applicant when the person who wishes to appeal to the Board is entitled to priority employment consideration after a reduction-in-force action, or after partial or full recovery from a compensable injury (5 CFR 302.501, 5 CFR 330.209);

(14) Failure to reinstate a former employee after service under the Foreign Assistance Act of 1961 (5 CFR 352.508);

(15) Failure to re-employ a former employee after movement between executive agencies during an emergency (5 CFR 352.209);

(16) Failure to re-employ a former employee after detail or transfer to an international organization (5 CFR 352.313);

(17) Failure to re-employ a former employee after service under the Indian Self-Determination Act (5 CFR 352.707);

(18) Failure to re-employ a former employee after service under the Taiwan Relations Act (5 CFR 352.807);

(19) Employment practices administered by the Office of Personnel Management to examine and evaluate the qualifications of applicants for appointment in the competitive service (5 CFR 300.104);

(20) Removal of a career appointee from the Senior Executive Service for failure to be recertified (5 U.S.C. 3592(a)(3), 5 CFR 359.304); and